

# **Report of the Director, West Yorkshire Pension Fund to the meeting of Governance and Audit Committee to be held on 20 March 2015.**

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**AL****Subject:****West Yorkshire Pension Fund (WYPF) Local Pension Boards.****Summary statement:**

The Public Service Pensions Act 2013 requires the Department for Communities and Local Government to make regulations that require each Local Government Pension Scheme administering authority to establish a local pension board.

The Local Government Pension Scheme (Amendment)(Governance) Regulation 2015 were laid before Parliament on 28 January 2015.

Therefore, the City of Bradford MDC has to establish a board for the West Yorkshire Pension Fund by 1 April 2015.

**Recommendation:**

That the establishment and Terms of Reference of the Pension Board are agreed.

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Rodney Barton  
Director

**Portfolio:****Leader of Council & Strategic Regeneration**

Report Contact: Caroline Blackburn  
Phone: (01274) 434523  
E-mail:  
caroline.blackburn@bradford.gov.uk



## 1. BACKGROUND

- 1.1 One of the key aims of the Government's reforms to the public sector pension schemes is to raise the standards of management and administration and to achieve more effective representation of employer and employee interests.
- 1.2 The Public Service Pensions Act 2013 includes two main provisions to achieve this policy objective.
- 1.3 Firstly, there is a requirement to establish a national Scheme Advisory Board for each scheme that will provide advice to the relevant Government Department.
- 1.4 Secondly, where schemes are subject to local administration, local pension boards will be established to assist their administering authority with the effective and efficient management and administration of the Scheme.
- 1.5 Two consultations have been issued on the draft regulations required for these requirements and final regulations were received on 28th January 2015.
- 1.6 Due to short timescales a report and draft Terms of Reference taken to the 29th January 2015 Joint Advisory Group Meeting. At that meeting it was resolved:
  - That, subject to compliance with the final regulations, the Terms of Reference for the Pension Board be agreed.
  - That delegated authority to the Director, West Yorkshire Pension Fund, to amend the Terms of Reference agreed to ensure compliance with the final regulations.
- 1.7 Several amendments have been made to comply with the final regulations and guidance, and a copy of the Final Terms of Reference have been circulated to members of the Joint Advisory Group for comment.

## 2. Establishment of the Local Pension Board

- 2.1 The regulations require that each Administering Authority must establish by 1 April 2015 a Local Pension Board. Establish in this context means that the Administering Authority must have approved the establishment of the Pension Board, its composition and also the Terms of Reference in accordance with its constitution. It does not mean it has to be fully operational by this date, but should be within a reasonably practical period.



- 2.2 The role of the Board is to assist the Administering Authority in ensuring the effective and efficient governance and administration of the LGPS including:
- secure compliance with the Local Government Pension Scheme regulations and any other legislation relating to the governance and administration of the LGPS;
  - secure compliance with the requirements imposed in relation to the LGPS by the Pensions Regulator; and
  - In such other matters as the LGPS regulations may specify.
- 2.3 Once the Board has been established and the terms of reference agreed the Governance Policy Statement will be amended accordingly.

### **3. Membership of the Local Pension Board**

- 3.1 The board must include an equal number, no less than four in total, of employer representatives and member representatives.
- 3.2 Employer representatives must have the relevant experience and capacity to represent the Fund's employers.
- 3.3 Member representatives must have the relevant experience and capacity to represent the Fund's members.
- 3.4 In addition, a board may also have members who are neither employer nor member representatives.
- 3.5 All members of the Pension Board must undertake regular training to ensure their knowledge and understanding of the law relating to pensions and any other matters which are prescribed in regulations is maintained.
- 3.6 Councillors and Officers of an administering authority, i.e. City of Bradford MDC, who are otherwise involved in the administration of its pension fund cannot sit on the Board.
- 3.7 Any person to be appointed as a member of a board must not have a conflict of interest, which is defined as "a financial or other interest that is likely to prejudice that person's exercise of functions as a member of the board, but this does not include a financial or other interest arising merely by virtue of membership of the scheme".



#### **4. Operation of the Pension Board**

4.1 The Pension Board will report to the Governance and Audit Committee.

#### **5. LEGAL APPRAISAL**

5.1 The final version of the Terms of Reference have been reviewed by City of Bradford MDC Legal Services to ensure they comply with the regulations.

5.2 The Terms of Reference should be approved at the Governance and Audit Committee, as the Council's Constitution stipulates the Committee has the legal and strategic responsibility for WYPF (Article 33), and regulation 105 (2) of the Local Government Pension Regulations 2015 states that "an administering authority may delegate any function under these Regulations including [the] power to delegate". While Article 4.4.5 of the Council's constitution refers to terms of reference of committees being approved by full council, the statutory guidance makes it clear that the pension board is not a committee constituted under section 101 of the Local Government Act 1972 and therefore that the pension board terms of reference can be approved by the Governance and Audit Committee.

#### **6. Recommendations**

6.1 It is recommended that the establishment and Terms of Reference of the Pension Board are agreed.

#### **APPENDICES**

➤ Appendix A – Pension Board Terms of Reference



# **Pension Board of City of Bradford Metropolitan District Council for West Yorkshire Pension Fund**

## **Terms of Reference**

### **1. Introduction**

- 1.1 City of Bradford Metropolitan District Council (the Council), as Scheme Manager, as defined under section 4 of the Public Service Pensions Act 2013, has delegated legal and strategic responsibility for West Yorkshire Pension Fund (WYPF) to the Governance and Audit Committee. The Council has established two bodies to assist and support the Governance and Audit Committee in overseeing the Fund, namely the WYPF Investment Advisory Panel and the WYPF Joint Advisory Group.
- 1.2 In accordance with section 5 of the Public Service Pensions Act 2013 (the Act) and under 106 of the Local Government Pension Scheme Regulations 2013 (as amended) (the Regulations), the Council is required to establish a Pension Board. The Pension Board is separate from WYPF Investment Advisory Panel and the WYPF Joint Advisory Group.
- 1.3 This document sets out the terms of reference for WYPF Pension Board.

### **2. Objectives**

- 2.1 The role of The Pension Board, as defined by sections 5(1) and (2) of the Public Service Pensions Act 2013 is to assist the Council as Scheme Manager in ensuring the effective and efficient governance and administration of the LGPS including:
  - 2.1.1 securing compliance with the Local Government Pension Scheme regulations and any other legislation relating to the governance and administration of the LGPS;
  - 2.1.2 securing compliance with the requirements imposed in relation to the LGPS by the Pensions Regulator; and
  - 2.1.3 any other such matters as the LGPS regulations may specify.

### **3. Establishment**

The Board is established on 1 April 2015 subsequent to approval by the Governance and Audit Committee on 20 March 2015.

### **4. Membership and Appointment for Pension Board members**

- 4.1 Membership of the Pension Board shall be eight (8) in number. The Pension Board will consist of an equal numbers of member and employer representatives.

- 4.2 Pension Board representatives must not participate in or act as members of the Joint Advisory Group or Investment Advisory Panel.

### **Employer representatives**

- 4.3 Employers who participate in the Fund will nominate four (4) representatives to sit on the Pension Board as Employer Representatives from the following sources:

4.3.1 Three (3) representatives will be from West Yorkshire councils, one (1) of these three (3) will be appointed in accordance with 4.6 below.

4.3.2 One (1) representative will be from the other employing bodies. This representative shall be selected by City of Bradford MDC following a process where all employers will be asked to submit their interest in undertaking this role.

### **Member representatives**

- 4.4 Member representatives shall either be scheme members or have capacity to represent scheme members of WYPF

- 4.5 Relevant Trade Unions, who have agreed to represent all categories of the membership, will nominate four (4) representatives to sit on the Pension Board as member representatives.

### **The Chair**

- 4.6 The Council as Scheme Manager will appoint one Councillor from the City of Bradford Metropolitan District Council, independent of Joint Advisory Group, Investment Advisory Panel or Governance and Audit Committee, to sit as the Chair on the Pension Board

- 4.7 The Chair of the Board shall:
- (a) ensure that the Board delivers its purpose as set out in these Terms of Reference;
  - (b) ensure that meetings are productive and effective and that opportunity is provided for the views of all members to be expressed and considered; and
  - (c) seek to reach consensus and ensure that decisions are properly put to a vote when it cannot be reached. Instances of a failure to reach a consensus position will be recorded and published.

### **Attendance at meetings**

- 4.8 Each Pension Board member should endeavour to attend all Pension Board meetings during the year. In the event of consistent non-attendance by any Pension Board member then the tenure of the membership should be reviewed at the next Pension Board meeting.

## **5. Term of Office/Appointment**

- 5.1 Subject to paragraph 5.2, Pension Board representatives will normally serve for a period of four (4) years and may be reappointed to serve further terms so long as they remain relevant members (pursuant to paragraph 4 above).
- 5.2 Upon initial establishment of the Board in 2015 50% of members (comprising of two (2) member representatives and two (2) employer representatives) shall be appointed for a term of only two years in order to establish appointment on a rolling basis.
- 5.3 Employer bodies and organisations retain the right to withdraw representatives and identify replacements on occasion.
- 5.4 Pension Board members may be reappointed without limitation on terms subject to the Pension Board being satisfied as to the transparency and proper application of the appointment process in use.

## **6. Termination**

- 6.1 Other than by ceasing to be eligible a Pension Board member may normally only be removed from office during a term of appointment by the agreement of the Board.
- 6.2 Board membership may be terminated prior to the end of the term of office due to:
  - 6.2.1 A member representative no longer being a representative of the body on which their appointment relied
  - 6.2.2 An employer representative no longer holding the office or employment or being a member of the body on which their appointment relied.
  - 6.2.3 A board member no longer being able to demonstrate their capacity to attend and prepare for meetings or participate in required training.
  - 6.2.4 The representative being withdrawn by the nominating body and a replacement identified.
  - 6.2.5 A board member has a conflict of interest which cannot be managed in accordance with the Board's conflict policy.
  - 6.2.6 A Board member who is an elected member becomes a member of Joint Advisory Group and Investment Advisory Panel.
  - 6.2.7 A Board member who is an officer of City of Bradford MDC becomes responsible for the discharge of any function of the Administering Authority under the LGPS regulations.

## **7. Number of Meetings**

- 7.1 The Pension Board will normally meet twice a year. The Chair may call meetings more frequently if deemed necessary or if requested on matters considered urgent.
- 7.2 In exceptional circumstances, meetings can be conducted via communications between members of the Board including telephone conferencing and emails.

## **8. Creation of Working Groups/Sub Boards**

The Pension Board may establish sub-committees and working groups as and when required. The Pension Board will be responsible for developing and agreeing the terms of reference and membership of any sub-committees. The Pension Board will also be responsible for outlining the purpose of any working group, its membership and detailing when and how that working group should report back.

## **9. Code of Conduct and Conflicts of Interest policy**

- 9.1 The principles included in the Council's Code of Conduct for Members applies to all member of the Pension Board. The Code of Conduct is set out in Part 4 of the Council's Constitution:

[http://www.bradford.gov.uk/bmdc/government politics and public administration/about bradford council/council constitution](http://www.bradford.gov.uk/bmdc/government_politics_and_public_administration/about_bradford_council/council_constitution)

- 9.2 No person may be appointed to the Pension Board that has a significant conflict of interest. A conflict of interest is defined as a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the Pension Board. It does not include a financial or other interest arising merely by virtue of that person being a member of the scheme or any connected scheme for which the board is established.
- 9.3 All voting members of the Pensions Board must complete a Declaration of Acceptance of Office Form, and Disclosure of Financial and other interest form.
- 9.4 At each meeting any interests which may lead to conflicts in specific agenda items must be declared.

## **10. Voting Rights**

All representatives on the Pension Board have equal voting rights. Decisions made by the Pensions Board shall be on a majority basis. In the event of there not being a majority the Chair shall have the casting vote.



## **11. Other Attendees**

The Pensions Board will extend an invitation to attend to other members of staff and advisers as it may from time to time consider appropriate.

## **12. Secretariat Services to the Board**

Pension Board meetings will be administered by City of Bradford MDC Committee secretariat in accordance with the rules and procedures of City of Bradford MDC "Constitution of the Council and Executive Arrangements". All reasonable costs will be met by the Fund.

## **13. Agenda**

Prior to each meeting the Director of West Yorkshire Pension Fund will arrange to supply all members of the Board with an agenda and relevant information. The agenda and any relevant documents will be issued at least five working days in advance of the meeting, except in exceptional circumstances with the agreement of the Chair.

## **14. Quorum**

The quorum of the Pension Board shall be three. (Chair plus one employer representative and one member representative).

## **15. Publication**

In accordance with the Act the Council shall publish information about the Board to include:

- (a) The names of Board members and their contact details
- (b) The representation of employers and member on the Board
- (c) The role of the Board
- (d) These Terms of Reference

## **16. Allowances/Expenses**

No member or representative of the Pension Board shall be remunerated for undertaking this role. However, expenses incurred in attending meetings of the Board and attending training events, shall be reimbursed to all members and the cost will be met by the Fund.

## **17. Knowledge and Understanding and Capacity of Representative Members**

17.1 Every individual who is a member of the Pension Board must be conversant with:

- (a) the rules of the LGPS, in other words the Regulations and other regulations governing the LGPS (such as the Transitional Regulations and the Investment Regulations); and
- (b) the requirements of the Pensions Regulator; and
- (c) any document recording policy about the administration of the Fund which is for the time being adopted in relation to the Fund, and have knowledge and understanding of:
- (d) the law relating to pensions; and
- (e) such other matters as may be prescribed.

17.2 A Knowledge and Understanding Policy and Framework will be maintained by WYPF.

17.3 Pension Board members shall attend and participate in training arranged in order to meet and maintain the requirements set out in the Knowledge and Understanding Policy and Framework.

17.4 Employer and member representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meeting and participate in training as required.

## **18. Accountability**

18.1 The Board should in the first instance report its requests, recommendations or concerns to the committee. In support of this any member of the Board may attend a Committee meeting as an observer.

18.2 The Board should report any concerns over a decision made by the Committee subject to the agreement of at least 50% of voting Board members provided that all voting members are present. If all voting members are not present then the agreement should be of all voting members who are present, where the meeting remains quorate.

18.3 On receipt of a report the Committee shall within a reasonable period, consider and respond to the Board.

18.4 Where the Board is not satisfied with the response received it may request that a notice of its concern be placed on the website and in the Fund's annual report.

- 18.5 Where the Board is satisfied that there has been a breach of regulation which has been reported to the Committee and has not been rectified within a reasonable period of time it is under an obligation to escalate the breach.
- 18.6 The appropriate internal route for escalation is to the Administering Authority Monitoring Officer.

## **19. Budget**

The Pension Board is to be provided with adequate resources to fulfil its role. The Council will allocate an annual budget to cover the expenses of the board.

## **20. Core Functions:**

- 20.1 The first core function of the Board is to assist the Council in securing compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme.
- 20.2 The second core function of the Board is to assist the Council to ensure the effective and efficient governance and administration of the Scheme.
- 20.3 In support of its core functions the Board may make a request for information to the Committee with regard to any aspect of the Council's function. Any such request should be reasonably complied with in both scope and timing.
- 20.4 In support of its core functions the Board may make recommendations to the Committee which should be considered and a response made to the Board on the outcome within a reasonable period of time.

## **21. Data Protection**

- 21.1 The Pensions Board is considered a committee of and part of the Council's legal entity. The Council is and remains the data controller responsible for DPA compliance, including for processing carried out by the Pension Board, where processing is carried out as a data controller, or where personal data use by the Pension Board is not carried out for and on behalf of any other separate legal entity.
- 21.2 The Pension Board will therefore adhere to the data protection policies of the Council.

**22. Review of terms of reference**

22.1 These Terms of reference shall be reviewed on each material change to those parts of the Regulations covering local pension boards and at least every two (2) years.

22.2 These terms of reference were adopted on [dd/mm/yyyy].

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On behalf of the Council

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On behalf of the Board